

Group III Claims 1-15 (in part) and 17-27 (in part), drawn to compounds, compositions, and method of use, where R¹ or R³ is thiazolyl, classified in class 548, subclass various;

Group IV Claims 1-15 (in part) and 17-27 (in part), drawn to compounds, compositions, and method of use, where R¹ or R³ is oxazolyl, classified in class 548, subclass various;

Group V Claims 1-27 (in part), drawn to others, classified in classes such as 540, 544, 546, 548, and 564, subclass various.

The restriction requirement, as set forth above and on pages 2-3 of the Office Action, is respectfully traversed. However, to be fully responsive to the restriction requirement, Applicants elect, with traverse, the subject matter of Group I, claims 1-14 and 16-27.

Moreover, in response to a species requirement set forth on page 4 of the Office Action, Applicants elect, with traverse, 1-[6-[4-(2-isopropyl-phenylsulfanyl)-3-trifluoromethyl-phenyl]-pyrimidin-4-yl]-piperidine-3-carboxylic acid, shown in the specification as compound 59 of Example 25. See specification at pp. 55-56. This is a compound of formula I having the group of formula II substituted at the R³ position, where D and B are -N=, Z and Y are CR⁶, R¹ is trifluoromethyl, R², R⁴, R⁵, and R⁶ are each hydrogen, n is 1, A is an aryl substituted with R¹², which is alkyl, and R¹⁰ and R¹¹ are taken together with N to form a piperidine substituted with one R¹³ group at the 3-position, which is carboxyl. At least claims 1-14, 16, 18-23, and 25-27 read on the elected species.

The Examiner states that the inventions are distinct because Groups I-V relate to "structurally dissimilar compounds such that the variable cor created by the varying definitions of R¹ and R³ do not belong to the same recognized class of chemical

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

compounds. Office Action at p. 3 (added emphasis). Thus, according to the Examiner, “separate searches … would be required.” *Id.*

Applicants respectfully disagree and refer the Examiner to M.P.E.P. § 803, which sets forth the criteria and guidelines for Examiners to follow in making proper requirements for restriction. The M.P.E.P. instructs Examiners as follows:

If the search and examination of an entire application can be made without serious burden, the Office must examine it on the merits, even though it includes claims to distinct or independent inventions.

M.P.E.P. § 803 (added emphasis).

Here, the Examiner has not shown that examining the above groups together would constitute a serious burden. Applicants respectfully submit that the “core” is not variable, as alleged. The claimed compositions can be viewed as containing a similar “core” of a phenyl bonded to a sulfur, where the phenyl can be substituted at one or more than one of R¹ or R³ with the group of formula II. Applicants also respectfully submit that their position is supported by the Examiner’s own grouping in Group V, which can contain compounds having a variety of R¹ or R³ groups, classifiable in classes such as 540, 544, 546, 548, and 564.

Thus, for at least these reasons, Applicants respectfully submit that the restriction requirement is in error and request that the requirement be withdrawn.

If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, he is invited to call the undersigned at (617) 451-1621.

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P

By: Maria Bautista
Maria T. Bautista
Reg. No. 52,516

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FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com